

Punishment and Control: Juvenile Justice Reform in the USA

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INTRODUCTION

A separate justice system for juveniles has existed in the USA for over 100 years. It was originally intended to function as a social welfare system with dual aims: to shield young delinquents from the corrupting influence of seasoned adult offenders, and to provide delinquents and status offenders¹ with the guidance and treatment necessary to make the often difficult transition through adolescence to become law abiding adults. Over the last century, and most especially since the 1960s, juvenile justice policy has shifted dramatically, undergoing a series of reforms that have reshaped the system and challenged the principles on which it was founded.

In this chapter we examine trends in juvenile justice policy and practice in the USA, with a special focus on changes that have taken place in the last 20 years. Our analysis is presented in several parts. In the first, we set the stage for what follows by providing some background on the context within which juvenile justice operates in the USA. We explain that juvenile justice in the USA varies greatly across state and local jurisdictions. Since the 1970s, there has been a considerable degree of “federalization” of juvenile justice policy, resulting in somewhat lesser heterogeneity across systems than was true in the past. Nevertheless, the US tradition of federalism – which recognizes the autonomy of its 50 states – continues to guarantee wide variation in policy and practice. In this first section, we also present a picture of juvenile crime and juvenile court processing to further contextualize the challenges presented to those who work in the juvenile justice field.

In subsequent sections, we describe juvenile justice policy trends and their intended and unintended consequences. We focus initially on punitive reforms, what motivated them and what research has demonstrated regarding their effects.

¹In the USA, the juvenile justice population is classified into delinquents – those who commit crimes – and status offenders – those who commit special juvenile offenses like truancy, running away from home, and “being beyond parental control” that would not be crimes if committed by adults. The jurisdiction over status offenders has historically been justified on the grounds that these are youth at-risk for delinquency.

Here we also discuss the death penalty, and the longstanding but recently reversed stance on the execution of youths under 18. We then turn to a discussion of delinquency prevention. There has been a recent burst of activity in this area whose effects are not yet clear. We describe the nature of several key programmatic efforts and discuss preliminary assessments. In the final section of this chapter, we attempt to step back and assess the whole. We look at the uneasy mix of social welfare and social control that characterizes juvenile justice policy and practice in the USA today, and the very uncertain direction of juvenile justice policy in the future.

1. CONTEXT FOR UNDERSTANDING POLICY

No policy or policies can be understood outside of the context in which they are made and must operate. Thus we provide a brief set of background or contextual issues that provide an important framework for understanding the policies and practices of the juvenile justice system in the USA.²

1.1. Historical Context

Twenty years ago, Carter (1984: 36) noted that in order to comprehend juvenile justice in the USA, it is essential to understand three points. First, the size of the system(s) is enormous. All 50 states, the District of Columbia – and to some extent the federal government – have separate systems of juvenile justice. Within minimum constitutional standards set by the US Supreme Court, each jurisdiction is free to establish its own juvenile justice policies and practices. States are not *required* to have a separate justice system for juveniles, although all established separate systems by the mid-1920s and have maintained them ever since. Second, the systems are extremely complex internally and externally. This is especially true of the interaction of juvenile courts and juvenile correctional agencies with other public and private forms of social welfare and social control, including schools, mental health systems, public health agencies, police, and other agencies of government. Third, Carter underscores the dynamic character of the system(s), noting the significance of paying close attention to trends in those systems.

1.2. Social and Demographic Context

A key to appreciating the main policies of prevention, treatment, punishment, and procedural/individual rights is to understand something of the context of

²It is important to observe at the outset of this essay, that the use of the word “system” is a misnomer. There is no juvenile justice system in the USA. Indeed, some argue that it was not possible to speak of an adult criminal justice system in the USA until the 1960s (Klein, 1984).